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Regulatory Division
POA-2006-753

Steve Meyers
Acting Chief, Regulatory Division
Department of the Army
U.S. Army Engineer District, Alaska
P.O. Box 6898, CEPOA-RD
JBER, Alaska 99506-0898

Dear Mr. Meyer:

I am in receipt of your June 21, 2012 letter to President Standifer III expressing concerns about my correspondence with the Alaska State Historical Preservation Office (SHPO), the Advisory Council for Historic Properties (the "Council"), and the National Park Service (NPS) regarding Section 106 Consultation on cultural resources that may be impacted by the development of the Chuitna Coal Development Project that is currently the subject of a Supplemental Environmental Impact Statement (SEIS).

I am afraid there has been some confusion regarding the dual roles that the Native Village of Tyonek (NVT) has with respect to the regulatory processes that are under way. NVT is indeed a Cooperating Agency (CA) and as such, should defer to the United States Army Corps of Engineers' (USACE) role and responsibility as a lead agency to guide the SEIS process.

Simultaneously, however, NVT is a sovereign tribal government that may invoke government-to-government consultation on issues that may impact its interests. With respect to Section 106 of the National Historic Preservation Act (NHPA), nothing in that Act or its implementing regulations require a Tribe to go through the USACE before making contact with an agency to discuss the Section 106 process.

To the extent I overstepped CA protocol by requesting the NPS to participate as a cooperating agency in the discussions regarding cultural resources, I apologize. By this letter I would ask that USACE extend the invitation to the NPS to participate in the committee group discussions on cultural resources. This request is necessitated and justified on the basis that the NPS staff have particular knowledge and expertise relevant to the Tyonek people and their cultural resources. This expertise was recognized by PacRim's contractor Stephen Braun & Associates who consulted with Jeanne Schaaf of the NPS when developing his findings in his final reports. The NPS's expertise in this area is also reflected in the 2006 publication titled "West Cook Inlet

Ethnographic Overview and Assessment For Lake Clark National Park & Preserve” by Ronald T. Stanek, James A. Fall, and David L. Holen. A copy of this publication was distributed to Project Manager, Marcia Heer, and Col Koenig in Tyonek at the last government-to-government meeting held there in early May.

I appreciate USACE’s willingness to address the Section 106 process in greater detail at a meeting among the various interested parties with the assistance of trained archaeologists that have expertise in the field.

Sincerely,

A handwritten signature in black ink, reading "Heather Kendall Miller". The signature is written in a cursive, flowing style.

Heather Kendall Miller

cc: Marcia Heer, USACE
Frank Standifer III, NVT
Joel Hard, NPS
Judith Bittner, SHPO
Sheena DuVall, SHPO
Dr. John Eddins (NCHP)
Jamie Stoddard (EPA)